

01424

Before the
Administrative Hearing Commission
State of Missouri



STATE COMMITTEE OF
PSYCHOLOGISTS,

Petitioner,

vs.

PATRICIA NEUBAUER,

Respondent.

No. 98-000023 PS

CONSENT ORDER

The licensing authority filed a complaint. Section 621.045, RSMo Supp. 1996, gives us jurisdiction.

On January 14, 1998, the parties filed a "Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and State Committee of Psychologists and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. We find that the facts stipulated are true. We conclude that the licensee is subject to discipline under section 337.035.2(5), (6), (13), and (15), RSMo Supp., 1994. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order under 1 CSR 15-2.450(1)(B). We certify the record to the licensing agency under section 621.110, RSMo 1994.

No statute authorizes us to determine whether the agency has complied with the provisions of section 621.045.3, cited above. This is consistent with the holding that we have no role in superintending agency compliance with statutory procedures. *Missouri Health Facilities Review Committee v. Administrative Hearing Commission*, 700 S.W.2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied.

SO ORDERED on January 22, 1998.


SHARON M. BUSCH
Commissioner

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED
JAN 14 1998
ADMINISTRATIVE HEARING
COMMISSION

STATE COMMITTEE OF PSYCHOLOGISTS,
3605 Missouri Boulevard
Jefferson City, MO 65102

Petitioner,

v.

PATRICIA NEUBAUER, Ph.D.,
4901 Main, Suite 408
Kansas City, MO 64112

Respondent.

No. 48-000023 PS

JOINT STIPULATION OF FACTS, WAIVER OF HEARING
BEFORE THE ADMINISTRATIVE HEARING COMMISSION AND
STATE COMMITTEE OF PSYCHOLOGISTS AND CONSENT ORDER
WITH JOINT PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-2.450(1)) and pursuant to the terms of § 536.060, RSMo 1994, as it is made applicable to the Administrative Hearing Commission by § 621.135, RSMo 1994, the parties waive the right to a hearing of the above-styled case by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the State Committee of Psychologist under § 621.135, RSMo 1994, and jointly stipulate to the facts and consent to the imposition of disciplinary action against the psychologists license of Respondent for violations of statutes set forth below.

Respondent acknowledges that she has received and reviewed a copy of the Complaint filed by the State Committee of Psychologists in this case and the parties submit to the jurisdiction of the Administrative Hearing Commission.

The Respondent acknowledges that she is aware of the various rights and privileges afforded her by law, including the right to appear and be represented by counsel; the right to have a copy of the complaint served upon her by the Administrative Hearing Commission prior to the entering of its order; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by an administrative hearing commissioner. Being aware of these rights provided the Respondent by operation of law, the Respondent, Patricia Neubauer, Ph.D., knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and State Committee of Psychologists and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law and agrees to abide by the terms of this document as they pertain to Respondent.

I

Based upon the foregoing, the Petitioner and the Respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

JOINT PROPOSED FINDINGS OF FACT

1. The State Committee of Psychologists (the "Committee") is an agency of the state of Missouri created and established pursuant to § 337.050, RSMo 1994, for the purpose of executing and enforcing the provisions of Chapter 337, RSMo.

2. Patricia Neubauer, Ph.D., (the "Respondent") is licensed by the Committee as a psychologist, License No. PY01424. The Respondent's Missouri license is current and active.

3. In or about April 1995, Respondent began providing psychological care and treatment to Patient _____ and provided such care and treatment for approximately seven months.

4. During the course and scope of the psychologist/patient relationship, Respondent developed personal feelings for Patient _____.

5. After approximately seven months, Respondent transferred the care and treatment of Patient _____ to another therapist.

6. Approximately six to seven weeks after termination of the professional relationship, Respondent commenced an unprofessional personal dual relationship with Patient ____.

JOINT PROPOSED CONCLUSIONS OF LAW

7. Cause exists for discipline against Respondent's psychologist license pursuant to § 337.035.2 (5), (6), (13) and (15), RSMo Supp. 1994, which provides:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes;

. . . .

(5) . . . misconduct, . . . in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

. . . .

(13) Violation of any professional trust or confidence;

. . . .

(15) Being guilty of unethical conduct as defined in "Ethical Rules of Conduct" as adopted by the committee and filed with the secretary of state.

8. The Ethical Rules of Conduct for psychologists, 4 CSR 235-5.030, provide:

(1) General Principles.

(A) Purpose. The ethical rules of conduct constitute the standards against which the required professional conduct of a psychologist is measured.

(B) Scope. The psychologist shall be governed by these ethical rules of conduct whenever providing psychological services in any context. These ethical rules of conduct shall apply to the conduct of all licensees and applicants, including the applicant's conduct during the period of education, training and employment which is required for licensure. The term psychologist, as used within these ethical rules of conduct, shall be interpreted accordingly whenever psychological services are being provided in any context.

(C) Responsibility for Own Actions. The psychologist, when functioning as a licensed psychologist, shall be fully responsible for his/her own professional decisions and professional actions.

(D) Violations. A violation of these ethical rules of conduct constitutes unprofessional conduct and is sufficient reason for disciplinary action of denial of either original licensure, reinstatement or renewal of licensure.

(E) Aids to Interpretation. The Ethical Principles of Psychologists, Standards of Providers of Psychological Services and Specialty Guidelines for the Delivery of Psychological Services promulgated by the American Psychological Association shall be used as an aid in resolving ambiguities which may arise in the interpretation of the ethical rules of conduct, except that these ethical rules of conduct shall prevail whenever any conflict exists between these rules and any professional association standard.

(2) Definitions.

(A) Client. Client, as used in this code, means a patient or any other received of psychological services of that person's legal guardian. . . .

9. Respondent's conduct as set forth herein violates the following Ethical Rules of Conduct for psychologists in full force and effect at the time of the actions set forth herein:

A. 4 CSR 235-5.030(4)(B) and (5)(E), which provide:

(4) Impaired Objectivity and Dual Relationships.

...

(B) Dual Relationship Affecting Psychologist's Judgment. The psychologist shall not undertake or continue a professional relationship with a client when the objectivity or competency of the psychologist is or could reasonably be expected to be impaired because of the psychologist's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative or legal relationship with the client or a relevant person associated with or related to the client. If that dual relationship develops or is discovered after the professional relationship has been initiated, the psychologist shall terminate the professional relationship in an appropriate manner, shall notify the client in writing of this termination and shall assist the client in obtaining services from another professional.

...

(5) Client Welfare.

...

(E) Sexual or Other Dual Relations With a Client. The psychologist shall not enter into a sexual or other dual relationship with a client, as specified in subsections (4)(B) and (C) of these ethical rules of conduct.

10. Cause exists for Petitioner to take disciplinary action against the psychologist's license of Respondent pursuant to § 337.035.2 (5), (6), (13) and (15), RSMo 1994.

DISCIPLINARY ORDER

By agreement of the parties, License No. PY01424 of Patricia Neubauer is hereby placed on PROBATION for a period of TWO (2) YEARS (the disciplinary period). During the disciplinary period Respondent must adhere to the following terms and conditions:

A. At Respondent's expense, Respondent must undergo an evaluation to assess current functioning and effects of such functioning on Respondent's ability to practice, such evaluation shall be conducted by a psychologist approved by the State Committee of Psychologists. Within twenty (20) business days of the effective date of this Agreement, Respondent shall submit a list of no less than five (5) proposed psychologists to conduct the evaluation. The Committee may approve a psychologist from this list, or may require a second list of five (5) psychologists which the Respondent shall submit within twenty (20) business days of the Committee's request. The Respondent must begin the evaluation within thirty (30) days of the Committee's approval. The Respondent must immediately notify the Committee, in writing, of the start date of the evaluation.

B. The written evaluation must be submitted by the evaluating psychologist to the State Committee of Psychologists within thirty (30) days of the evaluation being initiated. It shall be Respondent's responsibility to ensure that the evaluation is submitted by the evaluating psychologist to the State Committee of Psychologists.

C. The evaluating psychologist shall be released to discuss the purpose and methods of the evaluation with a representative of the State Committee of Psychologists

prior to performing the evaluation. The evaluation will be pursuant to consultation with the State Committee of Psychologists. While Respondent will pay for the evaluation, the evaluating psychologists will work on behalf of the State Committee of Psychologists.

D. Respondent shall abide by the recommendations of the evaluating psychologist set forth in the psychological evaluation. Respondent shall engage in all psychological testing, evaluation, supervision, therapy or other treatment recommended. If therapy is deemed appropriate, the treating psychologist must be different from the psychologist performing the evaluation and must be approved by the State Committee of Psychologists. Respondent shall commence any recommended therapy or treatment within twenty (20) business days of the evaluation completion date.

E. If therapy is deemed appropriate, it must be continued according to the frequency of sessions recommended by the evaluating psychologist. The treatment modality or plan shall reflect issues and themes recommended by the evaluating psychologist as well as any additional treatment goals. Ongoing treatment and documentation should address the evaluating psychologist's recommendation.

F. In the event the treating psychologist becomes unable or decides not to continue serving in his/her capacity as a treating psychologist or otherwise ceases to serve as a treating psychologist during the disciplinary period, then, the Respondent shall:

- a) within three (3) business days of being notified of the treating psychologist's inability or decision not to continue serving as the treating psychologist, or otherwise learning of the need to secure a

treating psychologist, advise the State Committee in writing that he/she is needing to secure a treating psychologist and the reasons for such change; and

b) within twenty (20) business days of being notified of the treating psychologist's inability or decision not to continue serving as the treating psychologist, or otherwise learning of the need to secure a treating psychologist, secure a treating psychologist pursuant to and in accordance with the terms and conditions set forth in this Agreement.

G. Respondent must give the State Committee of Psychologists or its representative permission to review Respondent's treatment and/or medical records.

H. Respondent's therapist must report every six (6) months to the State Committee of Psychologists on Respondent's progress. It is Respondent's responsibility to ensure that these reports are provided in a timely manner.

I. During the disciplinary period, the scope and nature of Respondent's practice as a professional psychologist will be under review of the State Committee of Psychologists. Respondent may not work in settings that increase Respondent's risk for sexual misconduct. Respondent's work setting must be approved by the State Committee of Psychologists, and Respondent shall not engage in clinical psychological practice without the prior approval of the State Committee of Psychologists.

J. During the probationary period, Respondent must inform Respondent's clinical employers, and all hospitals, institutions, and managed health care organizations with which Respondent is affiliated, that Respondent's work as a professional psychologist is under probation by the State Committee of Psychologists.

K. Respondent is not currently engaged in the clinical practice of psychology. Should Respondent desire to engage in clinical practice during the probationary period, Respondent shall receive prior approval by the Committee, and Respondent's clinical practice as a professional psychologist shall be supervised on a weekly basis by a psychologist approved by the State Committee of Psychologists. If Respondent has failed to secure a supervisor within twenty (20) business days from the start of probation the Respondent shall cease practicing clinical psychology until a supervisor is secured. Respondent shall be responsible for any payment associated with the supervision. Supervision includes, but is not limited to, weekly on sight face-to-face review of cases, and review of written reports such as case notes, intake assessments, test reports, treatment plans, and progress reports. Should Respondent return to the clinical practice of psychology during the disciplinary period, Respondent shall comply with the additional provisions set forth in paragraphs L and M herein.

L. In the event the supervising psychologist becomes unable or decides not to continue serving in his/her capacity as a supervising psychologist or otherwise ceases to serve as a supervising psychologist during the period of probation, then, the Respondent shall:

- a) within three (3) business days of being notified of the supervising psychologist's inability or decision not to continue serving as the supervising psychologist, or otherwise learning of the need to secure a supervising psychologist, advise the State Committee of Psychologists in writing that he/she is needing to secure a supervising psychologist and the reasons for such change; and
- b) within twenty (20) business days of being notified of the supervising psychologist's inability or decision not to continue serving as the supervising psychologist, or otherwise learning of the need to secure a supervising psychologist, secure a supervising psychologist pursuant to and in accordance with the terms and conditions set forth in this Agreement. After twenty (20) business days, the Respondent shall not practice if he or she has not secured a supervisor.

M. The supervising psychologist shall be vested with administrative authority over all matters affecting the provision of psychological health services provided by Respondent so that the ultimate responsibility for the welfare of every client is maintained by the supervising psychologist.

N. Respondent's supervisor must report every six (6) months on Respondent's compliance with this Agreement.

O. Respondent may not serve as a supervisor for any psychological trainee, psychological intern, psychological resident, psychological assistant, or any person undergoing supervision during the course of obtaining licensure as a psychologist, professional counselor, or social worker.

P. Respondent must keep the State Committee of Psychologists apprised at all times, in writing, of Respondent's current home and work addresses and telephone numbers.

Q. Respondent is required to pay to the State Committee of Psychologists, in a timely fashion, all requisite fees required by law to renew and keep current Respondent's psychology license in Missouri.

R. Respondent is required to comply with all provisions of Chapter 337, RSMo, the rules and regulations duly promulgated by the State Committee of Psychologists and state and federal criminal laws.

S. Respondent must provide periodic reports of Respondent's compliance with this agreement every six (6) months.

T. At Respondent's expense, Respondent must agree to meet with the State Committee of Psychologists at reasonable intervals designated by the Committee.

U. If the State Committee of Psychologists determines that the Respondent has violated a term or condition of his/her discipline, or has otherwise failed to comply with the provision of Chapter 337 RSMo, which violation would be actionable in a proceeding before the State Committee of Psychologists or the Administrative Hearing Commission

or a Circuit Court, the State Committee of Psychologists may elect to pursue any lawful remedies or procedures afforded to it, and is not bound by this Agreement and its selection of remedies concerning such violation.

V. Respondent hereby waives and releases the Committee, its members and any of its employees, agents, or attorneys, including any former Committee members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees costs and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to §536.087, RSMo, or any claim arising under 42 USC 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this Agreement in that it survives in perpetuity even in the event that any court of law deems this Agreement or any portion thereof void or unenforceable.

W. The parties to this agreement understand that the State Committee of Psychologists will maintain this Agreement as an open record of the Committee as provided in Chapter 337, 610, and 620 RSMo.

X. Upon the expiration of the disciplinary period, the Respondent's license as a psychologist in Missouri shall be fully restored, provided all provisions of this Agreement and all other requirements of law have been satisfied.

Y. The parties to this Agreement understand that the State Committee of Psychologists will maintain this Agreement as an open record of the Committee as provided in Chapter 337, 610, and 620 RSMo.

RESPONDENT

Patricia Neubauer 1/2/98
Patricia Neubauer, Ph.D. date

Larry F. Marske 1/6/98
Larry Marske date
5950 N. Oak Trafficway, Suite 202
Kansas City, MO 64118
Attorneys for Respondent

STATE COMMITTEE OF
PSYCHOLOGISTS

Pamela Groose 1-12-98
Pamela Groose date
Executive Director -

Penney R. Rector 1/14/98
Penney R. Rector date
Assistant Attorney General
Attorneys for Petitioner